

EXHIBIT 4

11/20/2015

Pond5 Mail - Pond5 - Follow-up



Tom Crary <tomcrary@pond5.com>

Pond5 - Follow-up

7 messages

Tom Crary <tomcrary@pond5.com>

Fri, Oct 16, 2015 at 2:59 PM

To: gordon@soundtracker.com

Gordon -

Thanks for your note that was just forwarded to me from our CS team. On behalf of Pond5, I do extend my sincere apologies and regrets for the situation at hand, but please know that we will do everything possible to come to amicable settlement. As a show of good faith, I'll respond to your questions as fully and transparently as possible:

1.) ckennedy342 username - you were the first one to tip us off that the user was potential using illegitimate content. Unfortunately our fraud prevention measures are not fool proof, especially on very short audio tracks such as the short "sound effects" that ckennedy stole from your content. Once alerted, we immediately blocked the user and removed all content. We've subsequently done an internal investigation (using IP addresses, cookie matches, and other means) and we believe with high confidence that your files were only associated with this one username ckennedy342 (happy to walk you through the steps we took separately). We ultimately traced the username ckennedy342 to an IP address in Pakistan but have not found any more details of the fraudulent user's true identity.

2.) How much of your content was downloaded - ckennedy was a user on our site for approximately 10 months and during that time, total net revenue (across all content types) associated with the fraudulent account was \$4,063. Your content (which is absolutely amazing by the way), was actually only a small portion of ckennedy's fraudulent "portfolio". Of the \$4,063 in downloads, it is hard to know exactly how much of your stolen content was downloaded vs. content that was potentially stolen from other artists. We performed a sampling exercise of all downloads of ckennedy's content and narrowed down based around "nature" themes, we believe that approximately 5-10% of the downloaded content associated with the ckennedy username could have been or likely was originally yours.

3.) Who downloaded the content - Again, it's very hard to know exactly at this point as we'll first need to verify which clips that were downloaded originate from your content. Based on our initial sampling, however, we estimate that your content was sold to +/- 30 customers as very short clips of 3 - 10 seconds in length at an average price of \$10-\$15 per download.

Next steps:

As I acknowledged in my call, we are deeply sorry this happened. Hopefully you know our reputation in the industry with both artists and our customers has been built by being 100% "artist friendly" so we take these matters very seriously. I also know that you spent money with your lawyers to file your claim and I'm sorry for that. The reason for the direct communication rather than having our lawyer talk to your lawyer is to avoid further cost escalation if at all possible on both sides.

Our offer:

Since we don't know exactly how much of ckennedy's revenue was earned off of your content, I'm happy offer you 100% of the revenue associated with ckennedy342 username, which as noted above was \$4,063. Additionally in the interest of fostering any remaining goodwill possible, I'll offer you an additional \$2,500, for a total cash settlement of \$6,563. The one condition attached to this offer is that we would need you to release any potential claims that you may have against our customers related to this breach. Effectively we would need you to allow the license associated with the downloaded content to remain valid in the market without challenge. Hopefully you understand that our reputation in the market among both buyers and sellers of media is our single largest asset and protecting this reputation to media makers such as yourself and our customers is the main reason we are able to offer 10X-15X the value of the revenue. While I'm sure this isn't ideal, hopefully you agree

11/20/2015

Pond5 Mail - Pond5 - Follow-up

we are putting our best foot forward to make the best of a bad situation.

Separately and unrelated to our offer above, our Music & Sound Effects team are great admirers of your work and would be honored to have your award winning content sold legitimately on Pond5. With proper marketing and at a fair price point, we believe this could lead to significant income stream. We could also offer you an "artist spotlight" or "artist of the month" marketing campaign, which we have found greatly increases sales potential in both the short and long term. We are happy to discuss other potential ideas we have as well.

Please let me know your thoughts? If your amenable to a settlement along the lines of what I offered, I can have our lawyer draft up a very brief letter agreement, which of course your lawyer can review.

I'm available anytime if you have questions or would like to discuss. My cell is [781-704-8341](tel:781-704-8341).

Best regards,
Tom

--

Tom Crary

VP of Finance

mobile: [781-704-8341](tel:781-704-8341)

skype: thomascrary

email: tomcrary@pond5.com



Gordon Hempton

Oct 13, 4:05 PM

Dear Tom:

Thank you for your call yesterday. I appreciate your acknowledgments and am receptive to early resolution if we can come to a mutual agreement.

At this point, I am most concerned regarding the status of my copyrighted files outside of my control. Can you give a complete accounting of which of my files were downloaded, who downloaded them, when they were downloaded, and any information you have about the download (IP addresses, identities, email addresses, physical addresses, etc.)? Essentially, I want to know everything you have in your system regarding the downloaded files.

I also would like to know everything you know about any user that uploaded my work. Who is ckennedy342 and where does he/she/it live? Are there other users that have uploaded my work onto the Pond5 system?

Yours truly

11/20/2015

Pond5 Mail - Pond5 - Follow-up

Gordon Hempton

Gordon Hempton

Quiet Planet (<https://quietplanet.com/?pc=onesquareinch>) LLC/ The Sound Tracker
(<http://www.soundtracker.com/>)®

cell: [360-477-9588](tel:360-477-9588)

Gordon Hempton <gordon@soundtracker.com>
To: Tom Crary <tomcrary@pond5.com>

Mon, Oct 19, 2015 at 3:33 PM

Dear Tom:

Thank you for your email and kind words about my work. It is helpful to hear your perspective.

I would still like to get more information about how many of my files ckennedy342 uploaded onto your system and where those files may have been distributed. Can you please provide me a spreadsheet with all of the ckennedy342 uploads and subsequent sales or downloads? If I have a copy of the full list, I may be able to learn more about which of the files were mine. It appears that ckennedy342 did not change my file names, so I may be able to review the spreadsheet and determine the scope of the infringement. It will also be important to me to know who downloaded the files. Once those files are out on the Internet, I cannot control them.

Additionally, I accept your offer to walk me through how you came to the conclusion that ckennedy342 is the only user that uploaded my content.

At this point, I want to know more about the scope of the unauthorized use of my files and where they may be. I appreciate and share your desire for an early resolution and hope to have that conversation in the near future. It may be beneficial to have a neutral party mediate the claim or we may be able to come to resolution without the assistance of a third party.

Yours,

Gordon

Gordon Hempton

[Quiet Planet](#) LLC/ The [Sound Tracker](#)®

cell: [360-477-9588](tel:360-477-9588)

From: Tom Crary [<mailto:tomcrary@pond5.com>]
Sent: Friday, October 16, 2015 12:00 PM
To: gordon@soundtracker.com
Subject: Pond5 - Follow-up

[Quoted text hidden]

Tom Crary <tomcrary@pond5.com>
To: Gordon Hempton <gordon@soundtracker.com>

Mon, Oct 26, 2015 at 5:28 PM

11/20/2015

Pond5 Mail - Pond5 - Follow-up

Hi Gordon -

Sorry for the delay in following up. We've completed a pretty thorough scrub of the ckennedy's file library and I think I have the answers to your questions. I'll be happy to pass along the full list to you of the tracks which we believe are linked to your work and you can review for completeness. Unfortunately he had over 10,000 tracks online so it took quite a bit of time to review. Do you have time for a brief call this week to discuss next steps?

Best,
Tom

[Quoted text hidden]

Gordon Hempton <gordon@soundtracker.com>
To: Tom Crary <tomcrary@pond5.com>

Tue, Oct 27, 2015 at 2:46 PM

Dear Tom,

Your delay is understandable.

The best time for a call would be this Friday while I am relaxing at my country place after a busy week. Does 1PM (Eastern) work for you? If not, suggest a time later that day or early next week.

Meanwhile, if you would please send an Excel spreadsheet showing ckennedy's activity in time for our call then that would make it just that much more meaningful.

Yours truly,

Gordon

Gordon Hempton

Quiet Planet LLC/ The Sound Tracker®

cell: 360-477-9588

From: Tom Crary [mailto:tomcrary@pond5.com]
Sent: Monday, October 26, 2015 2:28 PM
To: Gordon Hempton
Subject: Re: Pond5 - Follow-up

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Tom Crary <tomcrary@pond5.com>
To: Gordon Hempton <gordon@soundtracker.com>

Tue, Oct 27, 2015 at 4:19 PM

11/20/2015

Pond5 Mail - Pond5 - Follow-up

Thanks Gordon. That sounds great, I'll send you an invite for a call on Friday at 1pm (ET) / 10am (PT). Again, I hope you know that I'm 100% committed to full transparency on the sales transaction data but if it's okay with you, let's have a quick discussion on Friday first so we are fully aligned on where we are headed. Please accept my apology for not sending in advance but I was officially "served" with your lawsuit today and we have only 3 weeks to organize a response if we're not able to settle this amicably. Again not trying to be evasive, I'm happy to fully disclose the sales details and sign an affidavit validating it's authenticity, but of course, I can only make such accommodations if we're able to settle this outside of the legal process. Otherwise of course, we'll need to save our financial resources towards responding to the lawsuit (then, sadly only the lawyers will win).

Best,
Tom

[Quoted text hidden]

Gordon Hempton <gordon@soundtracker.com>
To: Tom Crary <tomcrary@pond5.com>

Wed, Oct 28, 2015 at 12:48 PM

Friday, 1PM, confirmed.—G

Gordon Hempton

[Quiet Planet LLC](#) / [The Sound Tracker®](#)

cell: 360-477-9588

From: Tom Crary [mailto:tomcrary@pond5.com]
Sent: Tuesday, October 27, 2015 1:20 PM

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11/20/2015

Pond5 Mail - Pond5 - Item Sales Data



Tom Crary <tomcrary@pond5.com>

Pond5 - Item Sales Data

10 messages

Tom Crary <tomcrary@pond5.com>
To: Gordon Hempton <gordon@soundtracker.com>

Mon, Nov 2, 2015 at 9:42 AM

Gordon -

It was very nice to talk to you on Friday. As promised, I'm attaching the full sales details for username ckennedy342. I've prepared a quick summary on tab 1 and then you'll see the full details of just the items sold on tab 2 and then full details including even unsold items on tab 3 (I assume tab 2 will be your focus). I suspect not all of the 190 yellow highlighted "nature" themed tracks identified on tab 2 are actually sourced from your work, but for this purpose we assumed that anything "nature" related is yours. These 190 tracks were sold a total of 298 times (1.6X per item) for total P5 revenue share of \$1,063.

I've also passed along (tab 4) all of the info we've gathered on username ckennedy342's including possible aliases such as Hassan Khan of Karachi, Pakistan (linked via IP address and Cookie ID). Based on the evidence here, I would say there is a reasonable that Hassan Khan may indeed be the culprit but of course you should keep in mind that fraudsters often point to legitimate artists by name in the hope of making their fraudulent work look more legitimate. Of course, we will fully support you should you choose to pursue further action against the fraudster.

Once you've had a chance to review, please let me know your thoughts on how we can proceed forward. While we are committed to compensating you fairly for your damages and troubles, I also look forward to introducing you to our Audio Development team which can hopefully offer you much more long term upside. Should we plan a quick follow-up call for this week? Please call my cell at any time (781-704-8341).

Best,
Tom

--

Tom Crary

VP of Finance

mobile: 781-704-8341**skype:** thomascrary**email:** tomcrary@pond5.com

Gordon Hempstead Tracks.xlsx
4347K

Gordon Hempton <gordon@soundtracker.com>
To: Tom Crary <tomcrary@pond5.com>

Mon, Nov 2, 2015 at 10:54 AM

11/20/2015

Pond5 Mail - Pond5 - Item Sales Data

Hi Tom,

Thank you for sending this well organized spreadsheet promptly. Saying 10k files is sure easier than looking at them! I will keep you posted as I proceed, my current estimate is that it will take two full days, meaning that we can talk on Wednesday at the earliest or Thursday at the latest.

Looking forward to a quick and fair resolution.

Best,

Gordon

Gordon Hempton

Quiet Planet LLC/ The Sound Tracker®

cell: 360-477-9588

From: Tom Crary [mailto:tomcrary@pond5.com]

Sent: Monday, November 02, 2015 6:43 AM

To: Gordon Hempton

Subject: Pond5 - Item Sales Data

[Quoted text hidden]

Tom Crary <tomcrary@pond5.com>

Mon, Nov 2, 2015 at 11:59 AM

To: Gordon Hempton <gordon@soundtracker.com>

No problem Gordon. Again, really sorry this will cost you two days of your time. Just send me a note once you are mission complete and we can quickly jump on a call to debrief. I'll make myself available whenever it is convenient.

Best,

Tom

[Quoted text hidden]

Gordon Hempton <gordon@soundtracker.com>

Tue, Nov 3, 2015 at 11:35 AM

To: Tom Crary <tomcrary@pond5.com>

Dear Tom,

Making progress. It is hard to put off other work, so I am experiencing interruptions resulting in delays. I

11/20/2015

Pond5 Mail - Pond5 - Item Sales Data

now expect to be finished sometime on Wednesday. Meanwhile, will you please send me a copy of the license agreement a buyer must accept before purchasing a sound? I want to know what rights I am granting and what limitations are in place, if I sign a settlement agreement.

Best,

Gordon

Gordon Hempton

Quiet Planet LLC/ The Sound Tracker®

cell: 360-477-9588

From: Tom Crary [mailto:tomcrary@pond5.com]
Sent: Monday, November 02, 2015 8:59 AM
To: Gordon Hempton
Subject: Re: Pond5 - Item Sales Data

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Tom Crary <tomcrary@pond5.com>
To: Gordon Hempton <gordon@soundtracker.com>

Tue, Nov 3, 2015 at 12:17 PM

Sure Gordon. Here is the link to the license agreement.

<http://www.pond5.com/legal/license>

For context, the "Royalty Free" model, which has been made very popular through sites including Getty/iStock and Shutterstock over the last several years, grants pretty broad usage limits vs. the traditional "Rights Managed" license. You'll note that our license agreement very much follows suit in this respect. It's our belief that simple "Royalty Free" licensing has become a huge growth driver in expanding the universe of potential buyers. Would love to spend more time at some point introducing you to the long term potential we believe the RF licensing model affords to artists in monetizing their content over its lifetime.

Best,
Tom

[Quoted text hidden]

Gordon Hempton <gordon@soundtracker.com>
To: Tom Crary <tomcrary@pond5.com>

Wed, Nov 4, 2015 at 12:05 PM

Dear Tom,

Thank you for the license. Interruptions continue at work but I expect to finish my review by the end of today then review Pond5's license tomorrow morning. Would you like to speak on the phone tomorrow after 1PM (Pacific)? Also anytime Friday works equally as well.

11/20/2015

Pond5 Mail - Pond5 - Item Sales Data

Best,

Gordon

Gordon Hempton

[Quiet Planet LLC/ The Sound Tracker®](#)

cell: 360-477-9588

From: Tom Crary [mailto:tomcrary@pond5.com]

Sent: Tuesday, November 03, 2015 9:18 AM

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Tom Crary <tomcrary@pond5.com>

Wed, Nov 4, 2015 at 12:44 PM

To: Gordon Hempton <gordon@soundtracker.com>

Gordon - Thanks for the update. Unfortunately I'm tied up in a meeting tomorrow 1pm (PT) tomorrow. Would tomorrow at 9am (PT), or Friday at 9am or 11am (PT) work?

Best,

Tom

[Quoted text hidden]

Gordon Hempton <gordon@soundtracker.com>

Wed, Nov 4, 2015 at 12:56 PM

To: Tom Crary <tomcrary@pond5.com>

Friday, 9AM Pacific, noon Eastern is good. Speak then.—Gordon

Gordon Hempton

[Quiet Planet LLC/ The Sound Tracker®](#)

cell: 360-477-9588

From: Tom Crary [mailto:tomcrary@pond5.com]

Sent: Wednesday, November 04, 2015 9:44 AM

[Quoted text hidden]

[Quoted text hidden]

11/20/2015

Pond5 Mail - Pond5 - Item Sales Data

Tom Crary <tomcrary@pond5.com>

Wed, Nov 4, 2015 at 1:04 PM

To: Gordon Hempton <gordon@soundtracker.com>

Great. Confirmed. You can reach me on the same number [781-704-8341](tel:781-704-8341)

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